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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN B. BOVE, MARTY C. FRAME, MICHAEL A.
KALOUSEK, NANCY B. LEHRER, NATASHA N. MACPHERSON,
MARIA VERONICA PENNINGTON, ANIL K. PALAT, and STUART
WOLFF

Appeal 2009-011254
Application 09/777,492
Technology Center 3600

Before: MURRIEL E. CRAWFORD, HUBERT C. LORIN, and JOSEPH
A. FISCHETTI, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants seek our review under 35 U.S.C. § 134 (2002) from the Examiner's non-final rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We AFFIRM.

THE CLAIMED INVENTION

Appellants claim a system, method, and medium for generating and managing anonymous leads to assist in the buying and selling of goods and/or services (Specification 1:¶1). Claim 1 is illustrative of the claimed subject matter:

1. A computer-implemented method for generating anonymous leads from anonymously submitted database search criteria, comprising:
 - (a) maintaining a prospect database identifying device-identifying information and corresponding prospect information comprising:
 - (i) prospect-identifying information,
 - (ii) anonymously submitted search criteria, and;
 - (iii) search information corresponding to said search criteria;
 - (b) transmitting said prospect information to a business expert in a prospect presentation, wherein the prospect presentation is designed to enable generation of a proposal, and wherein the prospect information does not include the device identifying information from a prospect; and
 - (c) transmitting said proposal to a device associated with the prospect for which the proposal is generated.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Walker	US 5,794,207	Aug. 11, 1998
Dahod	US 6,574,608 B1	Jun. 3, 2003
Flight.	US 6,662,199 B1	Dec. 9, 2003
Liu.	US 6,839,680 B1	Jan. 4, 2005
Wilkins	US 6,868,389 B1	Mar. 15, 2005
Walker	US 2002/0169626 A1	Nov. 14, 2002

REJECTIONS

The following rejections are before us for review.

The Examiner rejected claims 1, 3, 5-9, 10, 12-16 and 18-20 under 35 U.S.C. 103(a) as unpatentable over Dahod and Wilkins.

The Examiner rejected claims 2, 11, and 17 under 35 U.S.C. § 103(a) over Dahod, Wilkins, and Liu.

The Examiner rejected claim 4 under 35 U.S.C. § 103(a) over Dahod, Wilkins, and Walker '207.

The Examiner rejected claims 21-23 under 35 U.S.C. § 103(a) over Dahod and Walker '626.

The Examiner rejected claims 24 and 25 under 35 U.S.C. § 103(a) over Dahod, Walker '626, and Flight.

ISSUES

Did the Examiner err in rejecting claims 1, 3, 5-9, 10, 12-16 and 18-20 under 35 U.S.C. § 103(a) over Dahod and Wilkins as disclosing anonymously submitted search criteria, since Dahod discloses that user registration may use a fictional username to protect anonymity?

Did the Examiner err in rejecting claims 21-25 under 35 U.S.C. § 103(a) over Dahad and Walker '626 as disclosing search criteria stored

without a requirement of user registration since Walker requires merchant registration?

FINDINGS OF FACT

We find the following facts by a preponderance of the evidence.

1. The Specification does not define or describe the term *anonymously*.
2. The ordinary and customary definition of the term anonymous, as defined by Merriam Webster's Collegiate Dictionary (10th ed.), is: "not named or identified."
3. The Specification describes that "'prospect' means a record, either localized or distributed, containing data, which includes information regarding a consumer's [(i.e. search-requestor's)] needs/preferences." (Specification 5:27-29).
4. Dahod discloses that anonymity can be preserved because "[t]he system preferably allows the username entered by the buyer to be fictional to protect anonymity." (Col. 5 ll. 16-18).
5. Dahod discloses receiving from a potential buyer a description of a product or service desired, and "storing said description in a searchable database indexed by category and keywords; and receiving from a potential seller a category and/or keyword for a product or service as criteria to search the searchable database; and wherein making said description available comprises making descriptions that match the criteria available to the potential seller. (Claim 65).
6. Wilkins discloses that the purpose of the cookie is "to record user preferences or browsing history." (Col. 2 ll. 33-34).
7. Although Wilkins discloses that "online behavior can be tracked, and often linked to a person's name, home address, and telephone number,

databases containing both online and offline behavior data are being collected” (Col. 2 ll. 48-52), it does not tie linking of personal identity to the use of the cookie.

8. The Specification describes that the “term ‘user’ is used herein to refer both to consumers (i.e. search-requesters) and business experts.” (Specification 7 ¶34).
9. The Specification describes by example that “[f]or an unregistered consumer, the user identifier is equivalent to a device identifier and is used as such.” (Specification 8 ¶36).
10. The Specification describes by example that a business expert must log in to the system, and if the business expert is not a registered user, “control passes to step 404. In step 404, a response is sent, which causes a registration screen to be displayed.” (Specification 19 ¶¶92-93).

ANALYSIS

Claims 1, 3-8, 9, 10, 12-15, 16, and 18-20

The rejections are affirmed as to claims 1, 3-8, 9, 10, 12-15, 16, and 18-20. We note that the Appellants argue independent claims 1, 9, and 16 together as a group. (App. Br. 15-17). Correspondingly, we select representative claim 1 to decide the appeal of these claims. Appellants do not provide a substantive argument as to the separate patentability of claims 3-8, 10, 12-15, and 18-20 that depend from claims 1, 9, and 16. Therefore, claims 3-10, 12-16, and 18-20 fall with claim 1. *See*, 37 C.F.R. § 41.37(c)(1)(vii) (2004).

Appellants argue anonymity in the claims not disclosed by the references, stating:

That anonymity extends even to the provider of the lead generation system who is ‘unable to identify the consumer’ (see paragraph [14] of present application). Dahod et al., on the other hand, requires registration of buyers and sellers and the submission of personal, identifying information which eventually is exchanged once a deal is reached between the buyer and the seller.

(Appeal Br. 15).

We disagree with Appellants for the following reasons.

Claim 1 recites, in pertinent part, *corresponding prospect information comprising: (i) prospect-identifying information, (ii) anonymously submitted search criteria.*

We find the term *anonymously* is not defined or described in the Specification (FF 1). We thus rely on the ordinary and customary meaning of “anonymous,” which is, “not named or identified” (FF 2).

The Specification describes that a *prospect* is a record tied to a search request and the data thereof is limited to a search requester’s needs/preferences information (FF 3). We thus interpret prospect data to be limited to these items, without individual identification.

We further find that Dahod discloses registering a user using a fictional user-created username (FF 4). As such, Dahod discloses not identify the true user and thus preserves the anonymity of the user and the corresponding search criteria, as required by the claims. Since we find that Dahod discloses the claim features, Wilkins is cumulative.

Appellants also argue, Wilkins’ use of “user-identifying cookies (where ‘on line behavior can be tracked and often linked to a person's name, home address, and telephone number ...’ see Wilkins et al., Col. 2, lines 49-

51)” teaches away from the anonymous lead generation system claimed.
(Appeal Br. 16).

We are not persuaded by Appellants’ argument because although Wilkins discloses that online behavior can be tracked, and often linked to a person’s name, home address, and telephone number, Wilkins does not tie linking of personal identity to the use of the cookie (FF 7). This is consistent with Wilkins disclosing the limited purpose of the cookie is “to record user preferences or browsing history.” (FF 6).

Claims 21-23

We affirm the rejection of claims 21-23. Appellants do not provide a substantive argument as to the separate patentability of claims 22-23 that depend from claim 21, therefore we address only claim 21. Claims 22 and 23 fall with claim 21. *See*, 37 C.F.R. § 41.37(c)(1)(vii) (2004).

Independent claim 21 recites, in pertinent part, *whereby search criteria is stored in association with search-requestor information without a requirement of user registration*.

Appellants argue:

As discussed above, the buyer-driven system of Dahod et al. teaches away from a non-registration system, and specifically requires users to register in order to receive proposals from the system (see Dahod et al., column 5, lines 7-21. Similar to Dahod et al., Walker et al. requires that merchants register in the system with their contact information (see FIG. 9, and paragraph [0062] of Walker et al.).

(Appeal Br. 18).

We disagree with Appellants for the following reasons.

We find the Specification states that the term *user* refers to two types of users: search-requesters and business experts (FF 8). Appellants’

Summary of Claimed Subject Matter (Appeal Br. 9) states that in the case of a search-requester, the user may operate without registration, since the user's device identifier is used as a user identifier (FF 9). The Specification only calls for registration in the case of a business expert who must log into the system (FF 10). We therefore interpret the claim term *user registration* to refer only to registration for a business expert user, and not a search-requester, which is what occurs in Walker¹.

Appellants also argue "claim 21 of the present application requires storing search criteria in association with search-requester information. Neither Dahod et al. nor Walker et al., nor their combination, make any teaching, suggestion, or disclosure of storing such search criteria." (Appeal Br. 19).

We are not persuaded by Appellants' argument because we find Dahod stores search criteria acquired from consumers for later use by merchants to identify prospects (FF 5).

Claims 2, 11, and 17

Appellants argue claims 2, 11, and 17 are not obvious for the reasons stated at claim 1. Since we find no error in the Examiner's rejection of claim 1, we affirm the rejections of claims 2, 11, and 17 for the same reasons set forth at claim 1.

Claim 4

Appellants argue claim 4 is not obvious for the reasons stated at claim 1. Since we find no error in the Examiner's rejection of claim 1, we affirm the rejection of claim 4 for the same reasons set forth at claim 1.

¹ The Examiner's found that Walker does not require consumer/search-requester user registration, but only business users. (Answer 10).

Claims 24 and 25

Appellants argue claims 24 and 25 are not obvious for the reasons stated at claim 21. Since we find no error in the Examiner's rejection of claim 21, we affirm the rejection of claims 24 and 25 for the same reasons set forth at claim 21.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 1, 3, 5-9, 10, 12-16 and 18-20 under 35 U.S.C. 103(a) as unpatentable over Dahod and Wilkins.

The Examiner did not err in rejecting claims 2, 11, and 17 under 35 U.S.C. § 103(a) over Dahod, Wilkins, and Liu.

The Examiner did not err in rejecting claim 4 under 35 U.S.C. § 103(a) over Dahod, Wilkins, and Walker '207.

The Examiner did not err in rejecting claims 21-23 under 35 U.S.C. § 103(a) over Dahod and Walker '626.

The Examiner did not err in rejecting claims 24 and 25 under 35 U.S.C. § 103(a) over Dahod, Walker '626, and Flight.

DECISION

The Examiner's rejection of claims 1-25 under 35 U.S.C. § 103(a) is AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2010).

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Application 09/777,492

AFFIRMED

MP

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